

ASSOCIATED AFPD
FOOD & PETROLEUM DEALERS, INC.

**To: Representative Barbara Farrah -Chairwoman
and Members of the House Regulatory Reform Committee**

**From: Jane Shallal – President
Associated Food and Petroleum Dealers**

Date: October 22, 2007

Re: HB 5102 (Additional jackpot prize payout; prohibit retailers from paying)

We are requesting the House Regulatory Reform Committee to approve language in HB 5102 which amends the Lottery Act to prohibit retailers from paying an additional prize payout to winners of lottery ticket holders). Many of our members have contacted us to express our concerns over certain retailer activity in connection with lottery game advertisements and the payout of prize money for lottery games. Certain Retailers/Lottery Agents have initiated a policy of setting and paying out more prize money for lottery cash winnings than that set by the Michigan Lottery Commission. For example, a retailer will promise citizens that, should they purchase a lottery ticket at that retailer's particular store and if that ticket results in a winning ticket, the retailer will pay an additional \$100 to \$200 payout (the additional amounts promised by retailers varies from store to store) in addition to the winning lottery ticket prize set by the Lottery Commission. An example of this would be a person having a winning lottery ticket for \$500 and, instead of the retailer paying the money awarded by the State Lottery Commission, the retailer will pay an additional \$100 or \$200 to the winner, just for purchasing the lottery ticket at his/her particular store. This additional payout is not from State Lottery funds or from money promised by the Lottery Commission, but an additional winning gamble or prize money set by the retailer and paid out of the retailer's own funds. Essentially, the retailer is providing an opportunity for additional winnings by paying out more of a jackpot prize than that set by State Lottery officials.

The current rules of the State Lottery do not specifically address this situation. Therefore, we seek to rectify this problem by recommending a change in the Lottery Act to preclude retailers from setting or modifying jackpot prize payouts. The reasons for such recommendation are stated below.

The Bureau of State Lottery rules and regulations specify that the State Lottery Commissioner may promulgate rules to set the number and size of the prizes on the winning tickets and the manner of payment of prizes to the holders of winning tickets. MCL 432.11(2)(c) and (e). The Lottery Act is somewhat unclear as to whether the retailer is precluded from setting or modifying the size of the prize and paying additional monies for winning Michigan lottery tickets. Allowing retailers to engage in their own rule making by permitting them to set the size and manner of payout of lottery prizes not approved by the Lottery Commission will result in improper and unsupervised gaming/gambling practices.

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There are no controls or monitoring over this sort of retailer practice and such situation will increase the likelihood of fraud and misrepresentation in advertising and lottery payout procedures. Unfortunately, this practice has led to some instances of fraud and misrepresentation by certain retailers. Whether payouts are in fact awarded as promised is strictly self regulatory by the retailer. We have received reports that abuses have occurred where citizens have returned to the store to obtain the added promised payout and are refused such payout. Recently, a retailer was assaulted and injured when a customer was refused the extra payout. Another situation involved a customer who had 4 winning tickets totaling \$2000 return to a store promising an additional \$100 payout for a winning ticket. When the store owner refused to pay him the additional \$400 for the 4 winning tickets, the customer began arguing with the store owner and was told him that if he did not give him his money including the bonus he would get his family members to blow the store up or burn it down "or even worse." When people feel cheated, they become angry and wish to be vindicated. However, the Lottery Commission does not regulate this sort of practice or provide for any avenue for complaints by lottery purchasers. These advertisements of extra payouts are giving citizens an exaggerated view of what money they can win and encourage them to come to a certain location to purchase a ticket and then be angered when no payout occurs. The Lottery Commission rules are intended to prevent potential fraud and abuse. This refusal or failure to pay the promised amount constitutes misrepresentation and an underpayment of lottery winnings. Lottery sales force/staff have reported that they receive 20 complaints each week regarding retailers' failure to pay the extra payout. The Lottery Commission should make certain that its lottery games are operated fairly, openly, and above board. Retailers should not have the discretion or power to determine the amount of the total prize awarded in a state run lottery program. No one should have the authority to increase or decrease a prize payment in this way. Retailers will soon become an independent gaming/gambling program setting the prize amount at any level they wish, with no oversight and no assurance that the money will be paid. The Michigan Lottery Commission cannot sufficiently monitor these types of payouts to ensure game integrity in these situations.

The success of the State Lottery hinges on high sales. The State Lottery provides financial incentives to retailers for high sales and uses commissions to encourage retail agents to sell lottery tickets. Lottery Agents/Retailers receive a 6-7% commission on each ticket sold and a 2% commission on any prize paid out. Retailers advertise an added payout as enticement to get lottery ticket buyers to come to their store so they can increase commissions on their sales of lottery tickets. Retailers can redeem winning tickets with a value up to and including \$600.00 and only get a 2% commission for such redemption. The additional promised payout is more than they make on the 2% commission. Retailers are betting on purchasers not winning the lottery, while their sales of tickets increase. They advertise the added payout in an attempt to influence or direct people to their lottery locations, resulting in additional commissions that would not have been paid had the tickets been purchased elsewhere. However, certain retailers have been refusing to payout the extra promised money for purchasing the winning ticket at their store. Some of our member retailers have indicated that they have suffered a loss in sales from averaging \$20,000 to \$9,000 in sales.

Lastly, there are minimum sales standards for the lottery. Some retailers may be attempting to prevent imposition of additional fees or revocation of their license by the lottery commission by failing to reach required minimum sales. Weekly sales of lottery tickets for each location must average \$500 per week, or the retailer will be required to pay \$20 per week or possibly face removal

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of the lottery terminal. Some retailers may be promising the extra payout to ensure they reach this weekly minimum amount or may be trying to force out a neighboring competitor. This practice has forced other unwilling retailers to engage in the same practice of promising extra payouts in order to remain competitive or to survive economically. This practice is hurting other businesses that cannot afford to payout extra money for the winning ticket but are forced to do so because customers go to the stores that give extra payout money.

The Retailer is required to have funds on hand to pay all prizes up to \$600.00. Retailers may be refusing to pay the promised extra payout, because to do so will result in the inability to pay prize winning tickets or amounts owed to the Lottery Commission for sale of tickets for the week. A retailer's selling privileges may be suspended if the Retailer is delinquent for failure to promptly settle on any game when he does not have sufficient good or available funds in the bank account at the time the Lottery attempts to electronically withdraw the retailer's settlement. The Lottery Commission is required by law to assure the continuing availability of money with which to pay state lottery prizes and is overseen by the state treasurer in this regard. So too should a retailer.

MCL 432.15(1) of the Lottery Act states in pertinent part:


The commissioner shall report immediately to the governor, the state treasurer and the Legislature any matters that require immediate changes in the laws of this state in order to prevent abuses or evasions of this act or rules promulgated hereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery.

The APPD has been receiving numerous complaints from retailers regarding the practice of retailers increasing the amount of payouts. We have reported and complained of this ongoing retailer activity to the Michigan Lottery Commission. The Commission states that the current rules, as written, do not allow them to take any action against retailers for their practice of paying additional prize money.

Citizens believe that the retailer is an agent of the State when it comes to Lottery games. Misrepresentation by a retailer/lottery agent will result in citizens assuming that the State lottery fraudulently induced him to purchase lottery game tickets thinking he could win more money by purchasing it at certain agent locations. News of fraud will reduce public confidence in the fairness of the lottery and therefore reduce sales. Specific and clear legislation is needed to prevent such practice and to help ensure game integrity.

We ask that you vote yes to approve language in HB 5102 which amends the Lottery Act to prohibit retailers from paying an additional prize payout to winners of lottery ticket holders. We thank you for your consideration of this matter.

Very truly yours,


Jane Shallal
President

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